

Voting Modernization Act of 2002

Funding Application and Procedural Guide

Voting Modernization Board

July 17, 2002

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I. VOTING MODERNIZATION FUND PROGRAM SUMMARY

The Voting Modernization Board (VMB) administers a program to fund the acquisition of modern voting systems under the Voting Modernization Act of 2002.

Eligible Entities: California counties*.

Eligible Projects: Purchase of modern voting equipment system hardware, including the software necessary to operate that hardware, in accordance with the provisions of the Voting Modernization Act of 2002. Project eligibility requirements are specified in Section III. "Voting system" is defined as "any voting machine, voting device, or vote tabulating device that does not utilize prescored punch card ballots."

Funds Available: The proceeds from the sale of up to \$200,000,000 in State General Obligation Bonds.

Allocation Amount: Funds will be allocated by the VMB in accordance with the formula specified in Section VI.

County Match Amount: One dollar for every three dollars of fund moneys.

County Match Type: Match is limited to moneys spent for the purchase of modern voting equipment system hardware and the software necessary to operate that hardware.

Application Submittal Deadline: Initial Applications for Funding Consideration must be received by the VMB by 4:00 p.m. on September 3, 2002.

Number of Applications that may be submitted: Each county may submit one initial application and, if necessary, one revision of that application. Applications for expansion of an existing system or components related to a previously approved application will be accepted for review by the VMB.

Agreement: Successful applicants must enter into an Agreement with the VMB. No funds shall be disbursed until there is a fully executed Agreement between the VMB and the County (see Appendix D).

Voting Modernization Board Staff Support

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*For the purpose of this document the term "county" includes "city and county".

II. INTRODUCTION

The Voting Modernization Board (VMB) is pleased to announce the availability of up to \$200,000,000 in funding as specified in the Voting Modernization Act of 2002. Funds will be appropriated to the Voting Modernization Fund and awarded by the VMB.

III. VOTING MODERNIZATION FUND PROGRAM

Purpose

The purpose of the fund is to provide assistance to counties in the purchase of modern voting systems.

Eligible Entities

All California counties are eligible to apply for VMB funds.

Project Eligibility Requirements

A county is eligible to receive fund money if it meets all of the following requirements:

1. The county has purchased new voting equipment system hardware after January 1, 1999, and is continuing to make payments on that system on March 6, 2002
2. The county matches fund moneys at a ratio of one dollar of county moneys for every three dollars of fund moneys
3. The county has not previously requested fund money for the purchase of a new voting system. Applications for expansion of an existing system or components related to a previously approved application shall be accepted for review by the Board
4. The fund moneys shall be used to purchase modern voting systems certified by the Secretary of State, pursuant to Division 19 of the California Elections Code
5. The fund moneys shall not be used to purchase a voting system that utilizes pre-scored punch card ballots
6. Any voting system purchased using bond funds that does not require a voter to directly mark on the ballot must produce, at the time the voter votes his or her ballot or at the time the polls are closed, a paper version or representation of the voted ballot or of all the ballots cast on a unit of the voting system. (The paper version shall not be provided to the voter but shall be retained by elections officials for use during the one percent manual recount or other recount or contest.)

Funds Available

The total amount of funds available is the proceeds from the sale of \$200,000,000 in State General Obligation Bonds. The Voting Modernization Board will determine the amount of individual awards as specified in Section VI.

In the event not all available funds are allocated, the VMB may at its discretion schedule one or more subsequent funding rounds.

Matching Funds Requirement

A County must contribute one dollar for every three dollars as specified in the Act. Match is limited to moneys spent for the purchase of modern voting equipment system hardware and the software to operate that hardware. The County shall certify to the VMB the source and amount of match funding.

IV. APPLICATION FOR FUNDING

Application for Funding Consideration

All applicants, regardless of where they are in the process of purchasing a voting system, must complete and sign the **Application for Funding Consideration** certifying that the voting system will comply with the Project Eligibility Requirements as set forth in Section III of this Funding Application and Procedural Guide (see Appendix A). An authorizing resolution or other document from the County's governing body must accompany the Application for Funding Consideration (see Appendix B).

Project Documentation Package

At the time all required project information is available, but no later than a date to be specified by the Board, applicants with an accepted Application for Funding Consideration on file with the VMB must submit the **Project Documentation Package** to be eligible for funding in accordance with the Fund Allocation Process (see Appendix C).

If a county has completed its detailed Project planning, the Application for Funding Consideration and the Project Documentation Package may be submitted concurrently.

The Project Documentation Package shall include the following:

1. Project Documentation Form signed by the person authorized in the authorizing resolution or other document from the governing body
2. One-page Executive Summary of the Project

3. Summary of the County's overall voting system modernization strategy and the expected impact of the Project on that strategy (maximum 5 pages)
4. Summary of the Project plan including project objectives, phases, resources, controls, and system implementation activities
5. Project schedule including key milestones and expected voting equipment system hardware acquisition and installation dates
6. A detailed line item estimate of all Project costs
7. A statement of the amount and source of match funds to be provided by the County
8. A signed vendor agreement detailing the specific costs for the voting equipment system hardware proposed for funding assistance
9. If a County is under court order to convert to a new voting system prior to March 1, 2004, the Project Documentation Package must include a description of how the proposed voting system meets that requirement. Additionally, the Project Documentation Package must include a contingency plan in the event the plan proposed is not implemented in time for that election
10. If at the time the Project Documentation Package is submitted to the VMB Federal voting reform legislation has passed, a brief description of how the proposed voting system will meet the requirements of federal law (maximum 3 pages)

The VMB will make final decisions on all applications. Applicants whose applications are denied will be notified by mail as to the reasons for the denial.

Application Submittal Deadlines

The Application for Funding Consideration and the Authorizing Resolution must be received by the VMB not later than 4:00 p.m. on September 3, 2002.

The Project Documentation Package and all required attachments must be received by 4:00 p.m. by a date to be specified by the Board.

Both the Application for Funding Consideration and the Project Documentation Package must be delivered to the following location.

Secretary of State
Division of Elections, 5th Floor
1500 11th Street
Sacramento, Ca 95814
Attention: Debbie Parsons

Number of Copies to Submit

The County shall submit to the VMB eight (8) copies of the Application for Funding Consideration and eight (8) copies of the Project Documentation Package.

V. AMENDED APPLICATION SUBMITTAL PROCESS

A county whose application is rejected shall be allowed a single opportunity to submit an amended version of that application to the Board.

An amended application must be received by the Board within 7 business days from the date of the Board's written notification of the initial application's rejection. Amended applications shall include all documents required of initial applications and must resolve all the reasons for rejection stated in the Board's notification.

VI. FUND ALLOCATION PROCESS

The VMB will determine the amount to be allocated to each county that has submitted an acceptable Application for Funding Consideration and set aside that amount either until the county submits a complete and acceptable Project Documentation Package, at which time the VMB may establish a payment schedule for the county, or until the funding allocation period expires, pursuant to Sections VI, VII, or VIII.

The VMB will base the projected maximum allocation of funds to each participating county on an equal weighting of the four formulas discussed by the VMB at its July 17, 2002 meeting, as corrected. These formulas are: (1) The number of persons eligible to vote in the county, as indicated in the February 19, 2002 (15-Day) Report of Registration; (2) The number of persons registered to vote in that county as of the February 19, 2002 (15-Day) Report of Registration; (3) The number of polling places in that county based on the number of precincts in the Statement of Vote for the March 5, 2002 election, minus the number of mail ballot precincts reported by the county to the Secretary of State for that election; and, (4) Voter turnout at the last 4 elections, as the calculated average turnout from the March 2002, the November 2000, the March 2000, and the November 1998 elections.

The calculation above shall establish a maximum allocation reserved for each county and shall not exceed the amount of the county's estimate as of July 17, 2002 to upgrade their voting equipment, as provided to the Secretary of State.

Payments of funds shall be distributed to counties based on actual invoices.

The State portion of the cost of voting equipment shall not exceed \$3,000 per voting machine.

All applications for funds shall include a plan describing how the county will make its voting equipment accessible to persons with disabilities.

If a county fails to submit the Project Documentation Package by the date specified under Application Submittal Deadlines, the VMB may at its discretion choose to cancel the allocation of funds set aside for that county and allocate those funds to eligible counties in any future funding rounds.

VII. CONDITIONS OF FUNDING

Funding Agreement

Successful applicants must enter into an Agreement with the VMB. No funds shall be disbursed until there is a fully executed Agreement between the VMB and the County.

Loss of Funding

The following may result in a loss of funding allocation:

1. County fails to submit an Application for Funding Consideration by September 3, 2002. Failure to submit an Application for Funding Consideration shall not prevent a county from participating in subsequent funding application cycles.
2. County fails to execute an Agreement for its allocated amount, within a timeframe specified by the Board, from the date of appropriation.
3. County elects not to use its allocation, only uses a portion of its allocation, or withdraws from the funding program.
4. County project is not consistent with the requirements of Proposition 41.

In the event the County fails to complete the funded Project or withdraws from the funding program, all funds, including interest earned, shall be returned to the VMB.

VIII. PROJECT REPORTING

Changes to Approved Project

County shall notify VMB of proposed changes in its Project. The VMB shall approve proposed changes. The notification must include an explanation of the reasons for the changes and a statement of the impact of such changes on the use of the voting systems in future elections. Any change which does not meet the requirements of this Funding Application and Procedural Guide may subject the county, at the discretion of the VMB, to loss of all or a portion of allocated funds.

Project Completion

County shall submit a Project Completion Report to the VMB. The report must certify completion of the Project and that all money allocated by the VMB was expended on the Project. It must provide a financial summary showing final Project costs and sources of funding.

IX. PAYMENTS

Payment Process

County must submit copies of invoices for voting systems to the VMB along with a Payment Request Form (see Appendix E). County will be paid in accordance with its approved Project Documentation and allocated funding.

Receiving Payments

Applicants should allow 45 to 60 days to receive payment after submitting a completed Payment Request Form.

X. RECORDKEEPING AND AUDIT

Recordkeeping

County shall maintain records in a manner that:

- Accurately reflects fiscal transactions with necessary controls and safeguards
- Provides complete audit trails, based whenever possible on original documents (purchase orders, receipts, progress payments, invoices, time cards, cancelled warrants, warrant numbers, etc.)
- Provides accounting data so the total costs of the Project can be readily determined throughout the Project period

The VMB requires that a County retain all Project related records for five years after the VMB has accepted the Final Project Report or Project Termination and for at least one year following any audit or final disposition of any disputed audit findings.

Audit

All Projects may be subject to standard audit reviews for three years following the completion of the project. The audit shall include all books, papers, accounts, documents, or other records of the County as they relate to the Project for which funds were allocated.

Upon written notice of an audit, the County shall make the Project records, including the source documents and cancelled warrants, available to the VMB. County shall also provide an employee having knowledge of the Project to assist the VMB's auditor. County shall provide a copy of any document, paper, or electronic record requested by the VMB.

APPENDIX A – APPLICATION FOR FUNDING CONSIDERATION

Voting Modernization Board

APPLICATION FOR FUNDING CONSIDERATION

County name and address (including zip code) _____ _____ _____ _____	VMB Use Only: Date Received: _____ Date Reviewed: _____ Board Agenda date: _____												
<table style="width: 100%;"> <tr> <td style="width: 30%;">Formula Allocation</td> <td style="width: 10%;">\$</td> <td style="width: 60%;">_____</td> </tr> <tr> <td>Amount of Funding Request</td> <td>\$</td> <td>_____</td> </tr> <tr> <td>Amount of Matching Funds</td> <td>\$</td> <td>_____</td> </tr> <tr> <td>Total Project Cost</td> <td>\$</td> <td>_____</td> </tr> </table>	Formula Allocation	\$	_____	Amount of Funding Request	\$	_____	Amount of Matching Funds	\$	_____	Total Project Cost	\$	_____	County Elections Official or other Contact Name _____ Title _____ Telephone _____ FAX _____ E-mail _____
Formula Allocation	\$	_____											
Amount of Funding Request	\$	_____											
Amount of Matching Funds	\$	_____											
Total Project Cost	\$	_____											
Describe the voting system under consideration (if known) and the anticipated acquisition schedule. <div style="text-align: center;"> <input type="checkbox"/> Attached </div>													
Attach an Accessibility Plan, describing how your county will use voting equipment purchased with Proposition 41 moneys to provide meaningful voting opportunities for persons with disabilities. <div style="text-align: center;"> <input type="checkbox"/> Attached </div>													
If at the time this application is signed Federal voting reform legislation has passed, attach a description of how the proposed voting system will meet the requirements of federal law. <div style="text-align: center;"> <input type="checkbox"/> Attached <input type="checkbox"/> Not Applicable </div>													
If your county is required by federal court order to convert to a new voting system not later than March 1, 2004, describe how the proposed voting system will meet this requirement, and provide a detailed explanation of your back up plan should the conversion process be delayed. <div style="text-align: center;"> <input type="checkbox"/> Attached <input type="checkbox"/> Not Applicable </div>													
I certify that the Project for which funds are being sought will comply with the Project Eligibility Requirements as set forth in the VMB Funding Application and Procedural Guide. Signed _____ Date _____ <div style="text-align: center; margin-top: 10px;">County Representative</div>													

Acceptance of an application for review by the VMB in no way obligates the VMB to provide the funds requested in the application.

APPENDIX B – SAMPLE GOVERNING BOARD RESOLUTION

Resolution No: _____

RESOLUTION OF THE (Title of Governing Body of the Applicant)

APPROVING THE APPLICATION FOR FUNDS

UNDER THE

VOTING MODERNIZATION BOND ACT OF 2002

(COUNTY)

(PROJECT)

WHEREAS, the people of the State of California have approved funding for the Voting Modernization Fund; and

WHEREAS, the Voting Modernization Board has been delegated the responsibility for the administration of the Voting Modernization Fund, setting up necessary procedures; and

WHEREAS, said procedures established by the Voting Modernization Board require the County to certify by resolution the approval of application(s) before submission of said application(s) to the Voting Modernization Board; and

WHEREAS, the County will enter into an agreement with the Voting Modernization Board for subject Project(s);

NOW, THEREFORE, BE IT RESOLVED that the _____
(GOVERNING BODY)

1. Approves the filing of an Application for assistance for the above project(s) to be funded from the Voting Modernization Act of 2002; and
2. Certifies the County understands the assurances and certification in the Application form; and
3. Certifies the County has reviewed and understands the General Provisions contained in the Funding Agreement shown in the Funding Application and Procedural Guide; and
4. Appoints the Chief Elections Officer or his/her designee as agent to conduct all negotiations, execute and submit all documents including, but not limited to Applications, agreements, payment requests and so on, which may be necessary for the completion of the aforementioned Project.

I, the undersigned, hereby certify that the foregoing Resolution Number _____ was duly adopted by (Governing Body) following a roll call vote:

Ayes

Noes

Absent

(Clerk)

(Date)

APPENDIX C – PROJECT DOCUMENTATION FORM

Voting Modernization Board

PROJECT DOCUMENTATION FORM

County Name and Address (including zip code)

County Elections Official or other Contact

Name _____

Title _____

Telephone _____

Email _____

FAX _____

VMB Use Only:

Date Received: _____

Date Reviewed: _____

Board Agenda Date: _____

Comments: _____

The following must be submitted with this form:

1. One-page Executive Summary of the Project
2. Summary of the County's overall voting system modernization strategy and the expected impact of the Project on that strategy (maximum 5 pages)
3. Summary of the Project Plan including project objectives, phases, resources, controls, and system implementation activities
4. Project schedule including key milestones and expected voting equipment system hardware acquisition and installation dates
5. Detailed line item estimate of all Project costs
6. Statement of the amount and source of match funds provided by the County
7. Signed vendor agreement detailing the specific costs for the voting equipment system hardware proposed for funding assistance
8. If a County is under court order to convert to a new voting system prior to March 1, 2004, the documentation must include a description of how the proposed voting system meets that requirement. Additionally, the Project Documentation Package must include a contingency plan in the event the plan proposed is not implemented in time for that election
9. If at the time the Project Documentation Package is submitted Federal voting reform legislation has passed, a brief description of how the proposed voting system will meet the requirements of federal law (maximum 3 pages)

I certify that the information contained in this form including all attachments is true and correct and that the Project for which funds are being sought complies with the Project Eligibility Requirements set forth in the VMB Funding Application and Procedural Guide.

Name _____
County Representative Authorized by Resolution

Date _____

APPENDIX D – FUNDING AGREEMENT

STANDARD AGREEMENT

		AGREEMENT NUMBER									
1. This Agreement is entered into between the State Agency and the County named below											
<div style="border-bottom: 1px solid black; margin-bottom: 5px;">STATE AGENCY'S NAME</div> <div style="border-bottom: 1px solid black; margin-bottom: 5px;">Voting Modernization Board</div> <div style="border-bottom: 1px solid black;">COUNTY NAME</div>											
2. The term of this Agreement is: _____ through _____											
3. The maximum amount \$ _____ of this Agreement is:											
4. The parties agree to comply with the terms and conditions of the following exhibits which are by this reference made a part of the Agreement: <table style="width: 100%; margin-top: 10px;"> <tr> <td style="width: 50%;">Exhibit A – Scope of Work</td> <td style="width: 10%; text-align: center;">1</td> <td style="width: 40%;">Page(s)</td> </tr> <tr> <td>Exhibit B – Budget Detail and Payment Provision</td> <td style="text-align: center;">1</td> <td>Page(s)</td> </tr> <tr> <td>Exhibit C – Special Provisions</td> <td style="text-align: center;">3</td> <td>Page(s)</td> </tr> </table>			Exhibit A – Scope of Work	1	Page(s)	Exhibit B – Budget Detail and Payment Provision	1	Page(s)	Exhibit C – Special Provisions	3	Page(s)
Exhibit A – Scope of Work	1	Page(s)									
Exhibit B – Budget Detail and Payment Provision	1	Page(s)									
Exhibit C – Special Provisions	3	Page(s)									
IN WITNESS WHEREOF, this Agreement has been executed by the parties hereto.											
COUNTY											
COUNTY NAME											
BY (Authorized Signature)	DATE SIGNED)										
PRINTED NAME AND TITLE OF PERSON SIGNING											
ADDRESS											
STATE OF CALIFORNIA											
AGENCY NAME											
Voting Modernization Board											
BY (Authorized Signature)	DATE SIGNED										
PRINTED NAME AND TITLE OF PERSON SIGNING											
ADDRESS											
1500 11 th Street, Sacramento, CA 95814											

Exhibit B – BUDGET DETAIL AND PAYMENT PROVISIONS

1. Invoicing and Payment

- a. For voting equipment purchased, and upon receipt and approval of the invoices, the State agrees to compensate the County for actual expenditures incurred in accordance with the rates specified herein, which is attached hereto and made a part of this Agreement.
- b. Invoices shall include the Agreement Number and shall be submitted in triplicate not more frequently than monthly in arrears to:

Voting Modernization Board
c/o Secretary of State
1500 11th Street Room 465
Sacramento, CA 95814

EXHIBIT C – SPECIAL PROVISIONS

1. Definitions

Unless herein provided otherwise, all definitions used in the Funding Application and Procedural Guide shall be incorporated into this Agreement.

- a. The term "Act" as used herein means the Voting Modernization Act of 2002.
- b. The term "VMB" as used herein means the Voting Modernization Board.
- c. The term "County" as used herein means the county specified on Page 1 of this Agreement.
- d. The term "Project" as used herein means the Project defined in the application approved by the VMB and referenced on Page 1 of this Agreement.
- e. The term "Application" as used herein means the individual Application and its required attachments for funding pursuant to the Voting Modernization Act of 2002 and the Funding Application and Procedural Guide.
- f. The term "Agreement" as used herein, means this Agreement and all Agreement documents.

2. Project Execution

- a. Subject to the availability of funds in the Act, VMB hereby allocates to the County a sum of money not to exceed the amount stated on Page 1, in consideration of, and on condition that, the sum be expended in carrying out the purposes set forth in the Applicant's approved Application, referenced on Page 1, and under the terms and conditions set forth in this Agreement.
- b. County shall assume any obligation to furnish required matching funds and any additional funds that may be necessary to complete the Project. Any modification or alteration in the Project as set forth in the approved Application on file with VMB must be submitted to the VMB for approval.
- c. County shall complete the Project in accordance with the time of Project Performance set forth on Page 1, and under the terms and conditions of this Agreement.
- d. County shall permit initial, then periodic site visits by VMB and its representatives to determine if work is in accordance with the approved Application, including a final inspection upon Project completion.
- e. County agrees to submit any significant deviation from the original Project Scope to the VMB for prior approval prior to the commencement of any work. Changes in the Project Scope must be approved in writing by the VMB and shall meet the exact need described in the approved Application.

3. Project Costs

On proof of award of an Agreement, County may submit a Request for Payment along with copies of paid invoices for voting systems to the VMB. County will be paid in accordance with its approved Project Documentation and allocated funding but not to exceed the VMB funding amount set forth on Page 1 of this Agreement.

4. Project Administration

- a. County shall promptly submit such reports as VMB may request. In any event, County shall provide VMB a Project Completion Report.
- b. County shall make the voting system acquired or developed pursuant to this Agreement available for inspection upon request by VMB.

5. Project Termination

- a. County may unilaterally rescind this Agreement at any time prior to the commencement of the Project. After Project commencement, this Agreement only may be rescinded, modified, or amended by mutual agreement in writing. If the Agreement is rescinded, the County shall return all funds to VMB, including any interest earned and make Project records available to VMB for audit.
- b. Failure by the County to comply with the terms of this Agreement or any other Agreement under the Act may be cause for suspension of all obligations of VMB hereunder.
- c. Failure of the County to comply with the terms of this Agreement may not be cause for the suspension of all obligations of VMB hereunder if in the judgment of the State such failure was due to no fault of the Applicant. In such case, any amount required to settle at minimum cost any irrevocable obligations properly incurred shall be eligible for reimbursement under this Agreement.
- d. County and VMB agree that payments may be withheld until the Project conforms substantially to this Agreement.

6. Hold Harmless

- a. County shall waive all claims and recourse against VMB including the right to contribution for loss or damage to persons or property arising from, growing out of or in any way connected with or incident to this Agreement except claims arising from the concurrent or sole negligence of VMB, its officers, agents, and employees.

7. Application Incorporation

The approved Application and any subsequent change or addition approved by VMB is hereby incorporated in this Agreement as though set forth in full in this Agreement.

8. County Responsibility

County shall adhere to all applicable laws or regulations of any governmental authority now or at any time during the term of the Agreement in force.

APPENDIX E – PAYMENT REQUEST FORM**Voting Modernization Board****PAYMENT REQUEST FORM****County name and address** (including zip code)

VMB Use Only:

Approved for payment: _____

Warrant issue date: _____

Warrant Number: _____

Comments: _____

County Elections Official or other Contact

Name _____

Title _____

Telephone _____

FAX _____

E-mail _____

VMB Agreement Number: _____**Fund Award Amount:** \$ _____**Previous Payments:** \$ _____

Voting system equipment submitted for payment.
Invoices must be attached. Invoices must include sufficient detail
for the VMB to determine eligibility for payment

1. _____

County match amount (line 1 X .25)

2. _____

Net funds requested for payment

3. _____

I certify that the documents attached hereto are true and correct copies of invoices for voting system equipment hardware purchased for the Project referenced above and eligible for payment as defined by the VMB Agreement. I further certify that these invoices have been paid in full.

Signed _____
County Representative Authorized by Resolution

Date _____

2002.05.27